

Department of Energy

§ 218.43

(d) Any person may request the DOE to initiate an investigation pursuant to paragraph (a) of this section. A request for an investigation shall set forth the subject matter to be investigated as fully as possible and include supporting documentation and information. No particular forms or procedures are required.

(e) Any person who is requested to furnish documentary evidence or testimony in an investigation, upon written request, shall be informed of the general purpose of the investigation.

(f) DOE shall not disclose information or documents that are obtained during any investigation unless (1) DOE directs or authorizes the public disclosure of the investigation; (2) the information or documents are a matter of public record; or (3) disclosure is not precluded by the Freedom of Information Act, 5 U.S.C. 552 and 10 CFR part 1004.

(g) During the course of an investigation any person may submit at any time any document, statement of facts or memorandum of law for the purpose of explaining the person's position or furnish evidence which the person considers relevant to a matter under investigation.

(h) If facts disclosed by an investigation indicate that further action is unnecessary or unwarranted, the investigative file may be closed without prejudice to further investigation by the DOE at any time that circumstances so warrant.

§ 218.41 Violations.

Any practice that circumvents, contravenes or results in the circumvention or contravention of the requirements of any provision of this part 218 or any order issued pursuant thereto is a violation of the DOE regulations stated in this part and is unlawful.

§ 218.42 Sanctions.

(a) *General.* Any person who violates any provisions of this part 218 or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this part 218 or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this part relating to fines and civil penalties.

(b) *Penalties.* (1) Any person who violates any provision of part 218 of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than \$5,500 for each violation.

(2) Any person who willfully violates any provision of this part 218 or any order issued pursuant thereto shall be subject to a fine of not more than \$10,000 for each violation.

(3) Any person who knowingly and willfully violates any provision of this part 218 or any order issued pursuant thereto with respect to the sale, offer of sale, or distribution in commerce of oil in commerce after having been subject to a sanction under paragraph (b)(1) or (2) of this section for a prior violation of the provisions of this part 218 or any order issued pursuant thereto with respect to the sale, offer of sale, or distribution in commerce of oil shall be subject to a fine of not more than \$50,000 or imprisonment for not more than six months, or both, for each violation.

(4) Actions for penalties under this section are prosecuted by the Department of Justice upon referral by the DOE.

(5) When the DOE considers it to be appropriate or advisable, the DOE may compromise and settle any action under this paragraph, and collect civil penalties.

(c) *Other Penalties.* Willful concealment of material facts, or making of false, fictitious or fraudulent statements or representations, or submission of a document containing false, fictitious or fraudulent statements pertaining to matters within the scope of this part 218 by any person shall subject such persons to the criminal penalties provided in 18 U.S.C. 1001 (1970).

[44 FR 27972, May 14, 1979, as amended at 62 FR 46183, Sept. 2, 1997]

§ 218.43 Injunctions.

Whenever it appears to the DOE that any firm has engaged, is engaging, or is